Co-Chairs' Report

First Meeting of the Electronic Commerce Steering Group

Auckland, New Zealand

27-28 June 1999

1.   The meeting was chaired by the United States and Thailand. All APEC economies except Russia and Papua New Guinea were represented at the meeting.

Opening Plenary

2.   The United States and Thailand co-chairs opened the first meeting of the Steering Group by welcoming the delegates and thanking New Zealand for hosting the meeting. The co-chairs then invited delegates to address the following organizational issues: participation of APEC Business Advisory Council (ABAC), the Pacific Economic Cooperation Council (PECC), and Pacific Basin Economic Council (PBEC); publication of papers; and participation by members of the press.

3.   Delegates raised no objections to the participation of ABAC, PECC, and PBEC in the Steering Group.

4.   The Chair (U.S.) stated that submissions for the first meeting of the Steering Group are considered papers of the submitting economy and thus are not subject to APEC paper publication procedures. He noted that the draft agenda and some of the papers being presented to the Steering Group are currently available on the Steering Group web site <http:www.ecommerce.gov/apec>. The Chair indicated that Steering Group documents will be placed on the public website in accordance with APEC document access policy. New Zealand is collating copies of all the papers submitted by economies. Presenters were requested to confirm with the New Zealand organizers that papers may be made public.

5.   The co-chairs invited the delegates to express their opinions on the level of press participation in the meeting. Canada expressed concern that the presence of the press might stifle open discussion. New Zealand expressed a desire for the process to be as open and public as possible. Canada suggested a compromise—opening only the legal forum portion of the agenda. It was agreed to follow this course of action and revisit the issue of inclusion of the press during the closing plenary.

Documents

Electronic Commerce Steering Group. *Agenda*. 99/SGEC/001.
APEC. *APEC Blueprint for Action on Electronic Commerce*. 99/SGEC/023.

OECD Authentication Workshop

6. An Australia reported on the June 1999 OECD Authentication Workshop and on the June meeting of the OECD Working Party on Information Security and Privacy.

7. At the Workshop, the APEC TEL-WG's Electronic Authentication Task Group issues paper, which provided a comprehensive overview of the authentication issues, was very well received. The OECD workshop concluded that the technologies used in electronic authentication are still evolving and policies and legislation that specify a particular technology could impede the development of electronic commerce.

8. At a meeting of the OECD Working Party on Information Security and Privacy that followed the workshop, it was agreed to propose that the OECD establish a Steering Group on Electronic Authentication to prepare a report to the OECD Ministers. The Working Party agreed that the Steering Group on Electronic Authentication should seek APEC input through the Australian delegation.

9. The OECD proposes to undertake a survey of 'form impediments' in national legislation. APEC member economies will be asked to participate in that survey.

10. Singapore noted that there would be a meeting of the TEL-WG's Electronic Authentication Task Group on cross-certification in conjunction with the APEC TEL meeting in Peru in September 1999 and extended an invitation to delegates of the Steering Group.

Documents

APEC TEL. Excerpt on Electronic Authentication from 'Chairman's Report Nineteenth Meeting APEC Working Group On Telecommunications.' 19th APEC TEL Working Group Meeting. Miyazaki, Japan. March 10 - 13, 1999. 99/SGEC/025.

Paperless Trading

11. The APEC Steering Group on Electronic Commerce discussed the current issues and the need to move forward the paperless trading initiative that is identified in the APEC Blueprint for Action on Electronic Commerce.

12. The meeting noted the successful experience of Chinese Taipei in adopting a clearance automation system for import and export cargo. Chinese Taipei reported that beginning in 1990, it had worked toward automating air and sea cargo clearance systems and has developed system that enables 24 hour submission of export and import declarations, as well as enabling the monitoring of progress online.

13. The representative of the Transportation Working Group (TPT-WG) gave a presentation on TPT-WG work conducted since 1995 on the removal of regulatory and institutional requirements for paper documents and the way forward for the paperless trading.

14. The TPT-WG representative advised the Steering Group that the TPT-WG can not progress work on the paperless trading initiative without broadening the efforts beyond the TPT-WG

to other APEC fora and sub-fora and a commitment by APEC economies and business to making paperless trading a priority issue.

15. Action priorities proposed by the TPT-WG include: making paperless trading a priority issue in the Steering Group's work plan; calling for developed economies to lead the way in taking action; pushing paperless trading into a wider forum; developing a Steering Group collective action plan; the Steering Group providing direction with regard to APEC fora—e.g., fostering cooperation between fora providing case studies of success stories; and the Steering Group developing a web site dedicated to paperless trading. The TPT-WG's representative called upon the Steering Group to consider these proposals and agree on a work program in order to ensure the paperless trading initiative set out in the Blueprint will be achieved.

16. Canada expressed concern that the paperless trading initiatives proposed by the TPT-WG were too broad in scope and suggested that the TPT-WG representative and interested delegates meet independently during the remainder of the Steering Group meeting and develop specific proposals to be discussed at he closing plenary. The co-chairs directed that delegates follow this course of action.

17. It was agreed that the paperless trading initiative forms part of the future work program of the Steering Group. A web page will be set up in the Steering Group's web site, supported by contact points in economies and relevant fora (Chair or designate), to facilitate work under the initiative and to monitor progress towards the achievement of the paperless trading initiative (2005 for developed and 2010 for developing economies or as soon as possible thereafter). Information on activities and progress will be updated on the Steering Group web site in time for inclusion in the Steering Group's report to the SOM.

18. As part of the virtual reporting on activities and progress, economies and fora will use the TPT-WG matrix of paper requirements as per document 99/SGEC/006 as a starting point. A Steering Group matrix will be produced with input from sub-fora—including their private sector participants—and economies to report on the progress of activities relating to the replacement of these paper-based transactions by electronic techniques. This matrix will be placed on the Steering Group web site as a reference and monitoring tool for sub-fora, economies and business. Economies and sub-fora will update the matrix to facilitate reporting on progress by the Steering Group to Ministers and Leaders.

19. The Steering Group agreed to recommend to the SOM the following action priorities:

a. Economies to include the paperless trading initiative in their Individual Action Plans.

b. APEC fora such as TPT-WG, SCCP, TEL and WGTP to include paperless trading in their respective Collective Action Plans, where relevant, and to undertake activities including joint-projects, which would contribute to the substitution of electronic techniques for paper documentation in international and cross-border trade transactions.

c. Interested economies to undertake joint demonstration projects, which would contribute to the paperless trading initiative and with participation from the business sector. The

Steering Group noted that previous work in TEL provides a model for joint activities between economies and sub-fora, based on a demonstration project of end to end paperless trading, including all commercial and regulatory requirements. (See *APEC EDI Pilot on Electronic Commerce, 1995* [APEC #95-TC-01.1 ISBN 9810067364, Price S$7/US$5] available from the APEC Secretariat.)

d. Economies to share their experiences including success stories in relation to paperless trading with the Steering Group in order for other economies to benefit from the experiences.

e. With regard to regulatory and institutional barriers in the financial and payment sector, the Steering Group agreed that the Co-Chairs of the Steering Group will communicate with the Finance Deputies' process to encourage them to include paperless trading in their policy initiatives that are relevant to international and cross-border trade transactions. It is also agreed that the authentication matter in relation to these issues will be addressed by TEL.

f. In order to ensure comprehensive APEC coverage and increased momentum of the paperless trading goal, the Steering Group agreed to request the CTI, ESC and other related APEC fora to give priority to paperless trading activities in the context of the work program of their respective sub-fora (as appropriate) and to report annually on progress with the Steering Group matrix. The Steering Group also recognizes the need for cooperation between APEC fora and ABAC.

Documents

APEC Transportation Working Group. Key Transport and Trade Related Regulations and Institutional Requirements: Summary for Member Economies. June 1999. 99/SGEC/006.
APEC Transportation Working Group. *Information from Economies for Collective Action Plan*. 99/SGEC/007.
APEC Transportation Working Group. *Transportation Electronic Commerce Collective Action Plan*. 99/SGEC/008.
APEC Transportation Working Group. *Paperless Trading Initiative*. 99/SGEC/009.APEC Transportation Working Group. *Paperless Trading*. 99/SGEC/022.

Measurement of Electronic Commerce

20. The Steering Group took note of the United States report on recent, ongoing, and future activities to develop better statistics and indicators of the economic implications of electronic commerce. The United States pointed out that because of the unique nature of e-commerce developing both definitions and workable methodologies for the collection of e-commerce data is extremely difficult. The United States noted activities being undertaken by the statistical agencies in the United States; the U.S. conference "Understanding the Digital Economy"; the OECD Working Party on Indicators of the Information Society efforts to develop definitions of electronic commerce, and individual economy efforts to improve electronic commerce statistics. The United States also took note of an informal meeting of APEC attendees to the "Digital Economy" conference to discuss measurement issues.

21. The Blueprint for Action identifies "undertaking work to develop measures and indicators on the uptake, use and flows of electronic commerce" as one of the elements of the work program. The United States recommended that the Steering Group activities related to the electronic commerce statistics and measurement item on the work plan include: information exchange; work toward comparable definitions; the recognition and use of work already underway in other fora; e.g., the (OECD); and the work toward APEC-wide indicators of electronic commerce.

22. The Steering Group agreed to move this effort forward by (1) supplying the names of statistical experts and other representatives of APEC economies interested in these efforts; (2) collecting existing electronic commerce data from across APEC economies and compiling a bibliography of relevant reports; (3) encouraging informal meetings of APEC statistical experts to discuss electronic commerce data collection issues when possible; (4) setting up a web site for the purpose of sharing information on APEC electronic commerce measures and indicators. The United States agreed to act as a secretariat in these efforts. The co-chairs requested that if Economies have done work in this area that they would like to share to please forward electronic copies of documents or URLs to the Steering Group U.S. co-chair.

Documents

United States. *Measuring E-Commerce*. 99/SGEC/018.United States. *Measurement of Electronic Commerce*. 99/SGEC/021.

Workshop on Legal Foundations for Electronic Commerce

23. Canada chaired a half day workshop organized by New Zealand examining electronic commerce legal issues comprising three sessions—Legal Issues and Impediments: The Private Sector Experience; An Overview of E-Commerce; and Building the Legal Foundations for a Seamless System of Cross-border Electronic Commerce—and an address by Dr. Gerold Herrmann Secretary of the United Nations Commission for International Trade Law (UNCITRAL.)

24. David Su (Lee and Li, Chinese Taipei), Sanghan Wang (Korea), and David Murray (Dairy Farm Group) examined the experiences of Chinese Taipei, Korea and Dairy Farm Group (a multinational company) with respect to electronic commerce legal issues. The discussion focused on the importance of APEC collaboration with other international bodies (e.g., WTO, WIPO, OECD) that are dealing with electronic commerce legal issues. The panel also discussed the importance of raising awareness of the electronic commerce legal issues in the judicial branch, with the view that law made via the judicial process should be fully informed of the implications to electronic commerce and the need to avoid creating any new barriers or impediments to electronic commerce. Panelists also noted that many of the issues are best worked out among the private sector actors within the business community and that government should play a minimal role.

25. In the second session, Paul Sumpter (Kensington Swan), Andrew Poole, (Kensington Swan), and David Goddard (New Zealand) presented overviews of the current and potential interactions between electronic commerce and various legal fields. The discussion touched on questions such as: Which laws govern the parties' obligations/issues in dispute?; Where disputes may be determined?; Will a judgement obtained in one jurisdiction be enforceable elsewhere?; And, is effective interim relief available, pending trial? The discussants acknowledged that many of the issues are not new, however technology is enabling an acceleration of activities in which these issues arise. Mr. Goddard noted the increasing importance of default laws. Large firms have the resources to research the implications of their cross-border electronic commerce activities and tailor them to decrease exposure to risks created by legal uncertainty. However, small and medium-sized businesses and consumers will likely have fewer resources and less sophistication and thus rely on the default laws for redress.

26. Mr. Goddard suggested the importance of raising awareness of electronic commerce legal issues in bodies such as the Hague Conference on international private law where electronic commerce is not explicitly on the agenda, but where agreements are being developed that potentially has important implications for electronic commerce.

27. Dr. Herrmann (UNCITRAL) addressed the idea that the global nature of electronic commerce necessitates global approaches to solving legal questions. He focused on commercial law and, in particular the role played by UNCITRAL in developing model laws relevant to electronic commerce. Dr. Hermann emphasized the importance of creating confidence and legal certainty through legislative solutions, rather than relying on less formal approaches. Mr. Hermann also invited input from APEC into UNCITRAL's future work program, which is scheduled to be discussed at their September meeting. One delegation asked whether the consumer protection issue was also taken up by UNCITRAL. Dr. Herrmann said that UNCITRAL was mandated to focus only on commercial issues and therefore on the Business-to-business types of electronic transactions. In addition, there was currently no global body that would assume the authority to have the mandate to deal with consumer protection. However, he recognized that busines-to-consumer transactions were important in terms of number and represented a potentially large market in the future. In this respect, he would not exclude the possibility that the issues of consumer protection being taken by UNCITRAL in the future. Charles Lim (Attorney General's Office, Singapore), Colin Minihan (Attorney General's Office, Australia) and Paul Heath (Law Commissioner, New Zealand) spoke about their respective economies' positive experiences in implementing domestic legislation based on the UNCITRAL Model law on Electronic Commerce.

Summary and Conclusions

28. The Steering Group discussed the need to establish a seamless legal environment to facilitate the growth and development of electronic commerce. It concluded that one means of ensuring this would be for the Steering Group to recommend to the SOM, that APEC

economies give favorable consideration to the UNCITRAL Model Law on E-commerce when they enact or revise their laws to provide a legal framework that promote and fosters e-commerce.

29. International legal frameworks are important for establishing trust and confidence in cross-border electronic commerce. APEC needs to be aware of activities in other international fora and where appropriate should work to ensure that its interests are adequately represented.

30. Given the range of views, the group concluded there was a need for further study of certain legal issues. Over coming months interested members of the Steering Group will cooperate in work on the following questions before reporting back to the steering group early in 2000:

31. Whether there is a need to undertake further work within APEC to identify legal and regulatory impediments to the development of electronic commerce, and if so how.

32. (A related question is the possible value of using material in the 1998 APEC E-com Legal Guide as a basis for any further work on impediments. It may be possible to address some e-commerce legal issues within existing domestic legal frameworks).

33. What options there might be for working with other multilateral forums on "legal foundations."

34. (One proposal was to organize a seminar with other international forums to share information and coordinate efforts to address legal issues.)

Documents

Singapore. Building the Legal Infrastructure for Electronic Commerce: The Singapore Experience. 99/SGEC/003.
Chinese Taipei. Legal Foundations for Electronic Commerce: The Private Sector's Perspective. 99/SGEC/004.
UNCITRAL. United Nations Commission on International Trade Law. 99/SGEC/010.
UNCITRAL. Global Commerce Needs Global Commercial Law. 99/SGEC/011.
Electronic Commerce Law Guide: Overview of E-Com Law. 99/SGEC/016.
Korea. Electronic Transaction Law. 99/SGEC/024.
New Zealand (Paul Heath, QC). Legal Foundations for Electronic Commerce. 99/SGEC/026.
Kensington Swan. Electronic Commerce and the APEC Economies: An Overview of Legal Issues. 99/SGEC/027.
New Zealand (Goddard, David). E-Commerce Across Borders: Where Will Disputed Be Resolved? Which Laws Will Apply? 99/SGEC/028.

Readiness Indicators

35. The electronic commerce readiness indicators initiative is a private sector led effort to assist APEC economies to best position themselves for electronic commerce. The work product

of this initiative is a self-assessment/planning tool that can be used by economies, cities, and communities to evaluate electronic commerce capabilities when examined against the readiness factors developed by the private sector.

36. Members of the private sector gave a series of presentations on indicators of electronic commerce readiness which would optimize investment in electronic commerce and its applications. David Barnes (IBM Asia Pacific) outlined the basic infrastructure and technology requirements. Jan Gessin (AOEMA, Australia) drawing on seminars which AOEMA has run in a number of economies, emphasized the importance of access to necessary services (including, e.g. reliable electricity supply) and promotion and facilitation activities. Lauren Lenfest (Oracle Corporation, United States) discussed the current level and type of use of the Internet, as well as outlining skills and human resource issues. Lee Lee Lin (E-commerce Association of Chinese Taipei) used the experience of Chinese Taipei as a case study in addressing the key policy issues in her presentation, Positioning for the Digital Economy.

37. David Barnes who led this session outlined how the indicators could be used by APEC economies on a voluntary basis to enable a self-assessment of their capability to support and develop electronic commerce. He proposed that the private sector would refine these indicators in the coming months and recommend them as a basis of an assessment tool by for use APEC economies. A draft of the assessment tool would posted on the APEC E-commerce web site and comments welcomed from all interested parties. A final version of the readiness assessment tool would be ready by September and provided to the Steering Group. APEC economies would then be free to make use of this tool to conduct a self-assessment of their readiness, ideally in partnership with the private sector.

38. The Steering Group supported and welcomed continued work in this area. A number of delegates, however suggested changing the name, because 'indicators' suggests a comparison tool rather than a self assessment/planning tool. The Steering Group agreed that the indicator papers are to be refined and compiled to develop a readiness tool. Economies from amongst the Steering Group delegates who are interested in volunteering to test the readiness tool before it is widely distributed are encouraged to contact the co-chairs.

Documents

Electronic Commerce Readiness Indicators. 99/SGEC/012.
Chinese Taipei. The Assessment of Electronic Commerce Readiness: 'Positioning for the Digital Economy'—Economy The Example of Chinese Taipei. 99/SGEC/014/rev.

APRU Presentation

39. A brief presentation was made by Professor Howich of the University of Auckland, representing the Association of Pacific Rim Universities (APRU). APRUNet is a proposed extension of the Internet2 network to universities and research institute across APEC. This new network will be 100 times faster than the Internet and would facilitate and support research and educational opportunities through the APEC region. Professor Howich asked

for the Steering Group's support of the project in order to encourage APEC economies to take the steps necessary for its implementation.

40. Australia raised the question of whether APRU was in contact with other relevant APEC working groups. The Chair agreed to determine that and report back to the Steering Group. *{Note: The Chair later confirmed with the APEC Secretariat that over APRU had not been in contact with other APEC fora.]*

Presentations by ABAC/PECC/PBEC

41. Hon Phillip Burdon (ABAC, New Zealand) outlined the ABAC position on Electronic Commerce. Doug Stevens (PECC, TVNZ) presented a briefing on PECC's views on electronic commerce. Loren Lenfest (PBEC, Oracle Corporation) presented PBEC's Statement of Principles on Electronic Commerce and the PBEC Electronic Commerce Committee Plan of Action.

Documents

Pacific Basin Economic Council (PBEC). PBEC Statement of Principles on Electronic Commerce. 99/SGEC/020/rev.
Pacific Economic Cooperation Council (PECC). PECC Briefing of APEC E-Comm Meeting. 99/SGEC/029.
Pacific Basin Economic Council (PBEC). PBEC Electronic Commerce Committee Plan of Action. 99/SEGC/031.

Virtual E-Commerce Multimedia Resources Network (VECMRN)

42. The meeting noted the progress of the establishment of the VECMRN, a joint project of Canada, Singapore and Thailand endorsed by the APEC leaders as part of the Blueprint for Action on Electronic Commerce. Singapore gave a presentation on the VECMRN which is comprises a Virtual Information Network (VIN) housed in Canada House in Singapore and a physical Electronic Commerce Training Center (ECTC) hosted by Thailand. The goal of the VECMRN is to collect and disseminate and share information on e-commerce and promote social and cultural content exchange.

43. Thailand reported that the physical Electronic Commerce Training Center (ECTC) was already established in Bangkok and that Thailand would hold the first seminar under the ECTC at the end of this year.

44. The three economies managing the VECMRN indicated that resources were a concern for both components and that if APEC provided financial assistance to this program it would be helpful. APEC Secretariat noted that this project has been endorsed by the SOM and for the project to be able to take off, the three economies could make an application for the APEC's funding. These economies requested that each economy designate a single point of contact. They also propose the formation of a virtual working group of economies

interested in the project, a stock taking of related activities being done in other fora, and the development and implementation of a survey on content.

45. In the discussion, some Steering Group delegates expressed concern about the availability of resources for the project, both in terms of financial resources and content availability. The Canadian delegate acknowledged that resources were a concern, but that they would not go ahead with the project unless they had the necessary resources to implement it.

Documents

Canada, Singapore, Thailand. APEC Electronic Commerce Multimedia Resource Network. 99/SGEC/019.

Work in Other Fora

46. Canada on behalf of TEL gave a presentation on the e-commerce activities underway in the TEL, including the survey of SME e-commerce in the APEC area being conducted for the TEL by Price Waterhouse Coopers. It consists of both a survey questionnaire and field work. The final survey is to be completed by the time of the TEL WG meeting in September. The results of the survey could point to future work in APEC.

47. Brunei briefed the Steering Group on its proposal for a forum on SME's and electronic commerce. A funding request for this proposal is now before the Budget & Management Committee—New Zealand raised the possibility of holding this forum at the same time as other planned APEC activites as a means of reducing the need for delegates to travel. Brunei ageed that this could be considered. Brunei also briefed the group on its proposed project for a symposium on "IT Enablement of Trainers in the New Millennium."

48. The U.S. co-chair reviewed the Secretariat's survey of e-commerce work against the Blueprint. He noted areas were work was not presently underway. He noted in particular "Identifying the economic costs that inhibit increased uptake of electronic commerce..." and; financial aspects of e-commerce. In the case of financial aspects, he noted that the Blueprint was not specific about what work should be undertaken nor was the E-commerce Task Force when it discussed this issue in October 1998. He promised to circulate a paper by the Chicago Federal Reserve Board to stimulate discussion among Steering Group members as to what if any work may be necessary.

49. He also noted that in some cases the information from other APEC fora was limited; hence, it is difficult to ascertain to what degree the initiatives cited in the Blueprint are being carried out. He proposed that the Steering Group continue to review this issue electronically.

Documents

The Work of the OECD on Electronic Commerce. 99/SGEC/005.
APEC Secretariat. Electronic Commerce in APEC Fora. 99/SGEC/015.
APEC Telecommunications Working Group: Authentication. 99/SGEC/017.

Brunei Darussalam. Discussion of Work in Other Fora: HRD-WG Project 'IT Enablement of Trainers in the New Millennium. 99/SGEC/030.

Brunei Darussalam. Workshop on Electronic Commerce: Towards Building a Favorable Environment for an Accelerated Adoption of E-Commerce by APEC's SMEs. 99/SGEC/013.

Other Business

50.   On the subject of future meetings the U.S. co-chair proposed that the Steering Group should meet in about 12 months. No specific venue or agenda was discussed. New Zealand indicated that they are likely to make a proposal that the Steering Group consider consumer protection. The chairs invited delegations to submit ideas or concepts for the next meeting.

51.   The co-chairs indicated that a brief summary would be prepared for the Chair of the SOM as had been requested. Since this was due within 24 hours is would not be possible to clear the document with delegations. {*Note: This document was prepared and sent to the Chair of SOM who made the decision not to circulate it at the Meeting of Ministers Responsible for Trade.*} The chairs stated that they would prepare a chair's report which would be circulated for comment and that the report for the SOM would also be prepared and circulated in order that it can be sent to SOM prior to their meeting August 10.

52.   The co-chairs confirmed again with the Steering Group that all of the papers presented to the Steering Group were to be made public.